

CIRCUIT COURT OF SHELBY COUNTY, TENNESSEE  
THIRTIETH JUDICIAL DISTRICT

FILED

AUG 20 2008

VINCENT GILBERT, and  
CLARA GILBERT,

Plaintiffs,

v.

Cause No.

QT-004097-08

JURY TRIAL DEMANDED

DIV. VII

NATIONWIDE INSURANCE COMPANIES,  
and KRISTY STEWART,

Defendants.

COMPLAINT FOR DAMAGES

COMES NOW, the plaintiffs, Vincent and Clara Gilbert, hereinafter referred to as Plaintiffs,  
filing their Complaint for damages and in support of said Complaint would show this Court the  
following, to wit:

PARTIES

1. Plaintiff, Vincent Gilbert, is an adult resident of Memphis, Shelby County,  
Tennessee residing at 7130 Queen Crown Court, Memphis, Tennessee.
2. Plaintiff, Clara Gilbert, is an adult resident of Memphis, Shelby County,  
Tennessee residing at 7130 Queen Crown Court, Memphis, Tennessee.
3. All correspondence, regarding the Plaintiffs should be mailed to their attorney of  
record, John Keith Perry, Jr. whose office address is 7125 Getwell Road, Southaven, Mississippi.  
All correspondence should be mailed to Post Office Box 266, Southaven, Mississippi 38671-0266.

4. That Defendant, Nationwide Insurance Companies is a corporation with its home office being located at 1 Nationwide Plaza, Columbus, Ohio. This corporation regularly does business and has an office located at 3340 Players Club Parkway, Suite 300, Memphis, Tennessee.

5. That Defendant, Kristy Stewart is an employee of Nationwide Insurance Companies, who's office address is 3340 Players Club Parkway, Suite 300, Memphis Tennessee.

#### **VENUE**

6. Venue is proper in Shelby County, Tennessee, and in all events relevant to this lawsuit occurred in Shelby County, Tennessee.

#### **JURISDICTION**

7. Jurisdiction in this case is proper in the Circuit Court of Shelby County, Tennessee Thirtieth Judicial District.

#### **FACTS**

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8. On or about February 1, 2007, a contractual agreement between Nationwide Insurance Companies and Vincent and Clara Gilbert was issued providing insurance coverage for 4869 Burgess, Memphis, TN. Said coverage was to cover March 2, 2007 thru March 2, 2008. See Exhibit "1".

9. This contract documented as policy number 63T455-663 was to provide insurance coverage for 4869 Burgess, a rental property located in Memphis, Shelby County Tennessee.

10. In exchange for payment of premiums in the amount of \$356.00 per year, Plaintiffs were covered for loss due to fire or lightening. The structural coverage amount was \$105,732.00. Additionally, the personal property contents coverage was written in the amount of \$10,000.00.

11. Plaintiffs made prompt and timely premium payments and at no point did the policy lapse.

12. That at the time this contract was entered, this property was being rented to Terrence Ellis and Tiffany Ellis. The tenants made rental payments in exchange for authority, dominion, and quiet enjoyment of said property.

13. On or about July 4, 2007, the above referenced property located at 4869 Burgess, Memphis, Tennessee suffered a house fire.

14. The origin and cause of this fire has never been determined.

15. That to this date neither Vincent nor Clara Gilbert have ever been accused in any way of causing the fire to the house referenced above, nor have ever been charged or investigated for any arson at any time throughout their respective lives.

16. That the damages to said property was well in excess of \$100,000.00.

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17. That Kristy Stewart is a large loss adjuster for Nationwide Insurance and conducted an independent investigation into the loss incurred by Vincent and Clara Gilbert and opened claim number 6341T455-6630704200701.

18. That on or about February 15, 2008 Kristy Stewart wrote a letter to the attorney of record for Vincent and Clara Gilbert, and in said letter denied the claim of Vincent and Clara Gilbert. Exhibit "2". Said letter is attached hereto as Exhibit 2.

19. That the decision to deny the claim of Vincent and Clara Gilbert was made solely by Kristy Stewart even though the Gilbert's fully participated in the investigation process including giving a sworn examinations under oath and supplementing said examination with additional information and documents.

20. The decision to deny the claim of Vincent and Clara Gilbert was not supported by any sound reasoning or validation other than Kristy Stewart's inexplicable explanation that Vincent and Clara Gilbert somehow caused the fire that occurred on their rental property.

21. As a result of the decision by Kristy Stewart and Nationwide Insurance Companies to not honor their contractual obligation in this case, Plaintiff's continues to suffer.

#### COUNT 1

Violation of Tennessee Bad Faith refusal to pay insurance statute TCA § 56-7-105.

22. Plaintiffs incorporate allegations in paragraphs 1 through 21 as if stated in anew.

23. That without cause or justification, Kristy Stewart made the decision to deny Vincent and Clara Stewart's claim for insurance benefits due and payable at the time of the fire.

24. That Plaintiffs, by and through their attorney, issued a formal demand for payment.

25. That the Plaintiffs have waited well beyond 60 days after their demand

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before filing this lawsuit.

26. That because the refusal by Kristy Stewart and Nationwide Insurance Companies was not in good faith and without any evidentiary basis, Plaintiff's demand all compensation and damages allowed under TCA § 56-7-105.

#### COUNT 2

Violation of Tennessee Consumer Protection Acts, TCA §47-18-101, §56-7-10 through §56-7-106

27. The Plaintiffs incorporate paragraphs 1-26 stated anew and hereby.

28. That the unilateral decision not to pay contractual obligations in this case is a direct violation of the Tennessee Consumer Protection Act and the statutory provisions previously cited

29. That Plaintiffs are entitled to all damages allowed under the Consumer Protection Act,

including, but not limited to punitive damages, compensatory damages, expenses, court costs and attorney fees.

Damages

Due to the bad faith refusal to pay insurance benefits by Kristy Stewart and Nationwide Insurance Companies, Plaintiffs have suffered the following damages:

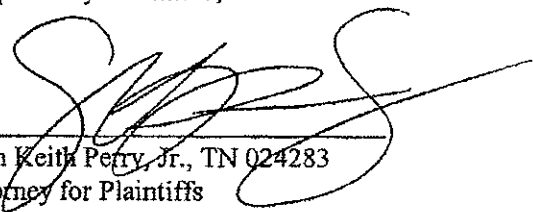
- A. The inability to fix the subject property so that it can be rented to new tenants.
- B. The loss of income on the subject rental property caused great out of pocket loss to Plaintiffs, who were then forced to make mortgage payments on rental property and the home that they currently live in.
- C. Plaintiffs suffered emotionally, being forced to feel the stigma of bankruptcy when they had paid insurance premiums to avoid the type of hardship that they had to endure because of the bad faith refusal to pay.

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D. The fire loss and subsequent nonpayment has negatively effected the credit of Plaintiffs.

Wherefore, Plaintiffs have presented cause in the preceding paragraphs and sections, Plaintiffs respectfully requests immediate payment of the policy limits of the insurance contract applicable in this case. Furthermore, Plaintiffs demand any and all damages, costs, fees and assessments that they are entitled, under the law, for the bad faith refusal to pay this legitimate claim.

Respectfully submitted,



John Keith Perry, Jr., TN 024283  
Attorney for Plaintiffs  
7215 Getwell Road, Suite 201  
Southaven, MS 38671  
662-349-6900



# DWELLING FIRE POLICY DECLARATIONS

Non-Assessable

Page 1 of 2

These Declarations are a part of the policy named above and identified by policy number below. They supersede any Declarations issued earlier. Your Dwelling Fire Policy will provide the insurance described in this policy in return for the premium and compliance with all applicable policy provisions. This insurance applies to the Described Location(s), coverage for which a Limit of Liability is shown and Perils Insured Against for which a premium is stated.

Policy Number:  
63 41 T 455663

Policyholder:  
(Named Insured)  
VINCENT & CLARA  
GILBERT  
7130 QUEENS CROWN  
COURT  
MEMPHIS TN 38125-4306

Issued:  
FEB 01, 2007

## Policy Period From:

MAR 02, 2007 to MAR 02, 2008 but only if the required premium for this period has been paid, and only for annual renewal periods if renewal premiums are paid as required. Each period begins and ends at 12:01 A.M. standard time at the Described Location(s).

## \*\*LOCATION ONE\*\*

### Described Location Information:

4869 BURGESS  
MEMPHIS  
ST TN ZIP 381188103

ONE FAMILY  
TENANT OCCUPIED  
FRAME CONSTRUCTION  
DWELLING  
YEAR OF CONSTRUCTION 1974

PROTECTION CLASS 2  
RATED PROTECTION CLASS 2  
INSIDE SINGLE CLASS AREA  
FIRE DISTRICT 0006  
PROTECTION TERRITORY 030

Physical Damage Coverages	Limits of Liability	Deductible: \$500 ALL PERILS
COVERAGE-A-DWELLING	\$ 114,400	IN CASE OF EACH LOSS, WE COVER ONLY THAT PART OF EACH LOSS OVER THE DEDUCTIBLE STATED.
COVERAGE-C-PERSONAL PROPERTY DWELLING	\$ 10,000	

NOTE: See Premium Summary Section and Policy for Perils Insured Against.

Other Coverages	Limits of Liability
AUTOMATIC INCREASE IN INSURANCE 4%	APPLIES
PREMISES ALARM	APPLIES
CENTRAL STATION FIRE ALARM	

## PREMIUM SUMMARY

Perils Insured Against	Premium Amount
FIRE AND LIGHTNING	\$ 214.00
EXTENDED COVERAGE	\$ 106.00
SPECIAL FORM	\$ 64.00
Annual Renewal Premium	\$ 384.00
Annual Renewal Premium Includes Discounts For: PREMISES ALARM	

EXHIBIT

D5300

**DWELLING FIRE POLICY DECLARATIONS**

Page 2 of 2

**FORMS and ENDORSEMENTS MADE PART OF POLICY**

DP 00 03 07 88  
DP 01 41 10 94  
DP 04 11 07 88  
DP 04 70 07 88  
Fire 4266

Special Form Policy  
Special Provisions  
Automatic Increase In Insurance  
Premises Alarm or Fire Protection System  
Sinkhole Activity Coverage Endorsement

**ADDITIONAL INTERESTS**

**FIRST MORTGAGEE**

CITIMORTGAGE INC  
ISAQA ATIMA  
PO BOX 7706  
SPRINGFIELD OH 45501-7706  
LOAN #2001862867

Issued By: NATIONWIDE MUTUAL FIRE INSURANCE COMPANY  
Countersigned At: RALEIGH, NC  
Prior Declaration Issued: FEB 02, 2006

Home Office -- Columbus, Ohio  
By: CLARENCE MOSLEY JR

**IMPORTANT PHONE NUMBERS**

Nationwide 24-Hour Claims Number: 1-800-421-3535

For QUESTIONS About Your Policy, Call Your NATIONWIDE AGENT: CLARENCE MOSLEY JR  
901-348-2550

For Hearing Impaired: TTY 1-800-622-2421

Nationwide Regional Office: 1-800-835-7975



Home Office:  
One Nationwide Plaza  
Columbus, OH 43215-2220

## NATIONWIDE MUTUAL FIRE INSURANCE COMPANY DECLARATIONS

PAGE 1 OF 1

NON-ASSESSABLE  
POLICY PERIOD

INCEPTION 7- 1-04  
EXPIRATION 7- 1-05

POLICY PERIOD BEGINS 12:01 AM  
STANDARD TIME AT THE  
RESIDENCE PREMISES.

HOMEOWNER POLICY: 63HO228-252

1ST MORTGAGEE AND ADDRESS	NAMED INSURED AND ADDRESS	LOCATION OF DESCRIBED PROPERTY	ADDITIONAL INSURED
COMMUNITY MRTG CORP	VINCENT GILBERT	4869 BURGESS	
ISAOA ATIMA	4869 BURGESS	MEMPHIS	NOT APPLICABLE
142 TIMBER CREEK DR	MEMPHIS	TN 38118-0000	
CORDOVA	TN 38118-0000		
TN 38018-4234			

\*\*\*\*\*TO REPORT CLAIMS. CALL 1-800-421-3535

INFLATION PROTECTION COVERAGE IS APPLICABLE.

We will provide the insurance described in this policy in return for the premium and compliance with all applicable policy provisions. See policy for details regarding the SPECIAL LIMITS OF LIABILITY and ADDITIONAL COVERAGE OPTIONS.

SECTION I COVERAGES	LIMIT	SPECIAL LIMITS OF LIABILITY	ADDITIONAL COVERAGE OPTIONS
A-DWELLING	\$105,732		OPTION LIMIT
B-OTHER STRUCTURES	\$10,573	SEE POLICY	J-EXT. REPL. COST APPLIES
C-PERSONAL PROPERTY	\$74,012		K-REPL. COST PLUS
D-LOSS OF USE	\$105,732		- DWELLING APPLIES
SECTION II COVERAGES			L-PROTECT. DEVICE APPLIES
E-PERSONAL LIABILITY	\$300,000		O-ORD OR LAW-10% OF COV-A
PD/BI-EA OCCURRENCE			R-WATER-BACKUP 5% OF COV A
F-MEDICAL PAYMENTS	\$1,000		
TO OTHERS-EA PERSON			

OTHER COVERAGES	LIMIT
-BIOLOGICAL DETR/DAMAGE CLEAN UP	\$5,000
-FIRE DEPT. SERV. CHARGES	\$500
-CREDIT CARD-FORGERY	\$1,000
AND ELEC. FUNDS TRANS.	

SECTION II EXCEPTIONS: The residence premises is the only premises owned or held for rental by the named insured or spouse, other than business property, and is used solely for private residential purposes. Exceptions, if any:

NONE

DEDUCTIBLE-SECTION I (In case of a loss under Section I, we cover only that part of the loss over the deductible stated).

ALL PERILS \$ 500

WATER BKUP DED \$ 500

FORMS AND ENDORSEMENTS MADE PART OF POLICY:  
HO-41,H-6114

SPECIAL PROVISIONS (Applicable only if indicated):

NONE APPLICABLE

CONSTRUCTION FRAME	NO. OF FAMILIES 01
TYPE OF ROOF APPROVED	TERRITORY 05 CONS. YEAR 1974

FIRE DISTRICT: 6  
IN CITY OR LISTED AREA

RATE PC 2 NOT MORE THAN 5 MILES FROM FIRE DEPARTMENT

BASE POLICY				
PREMIUM				
\$685.00				

TOTAL PACKAGE	
PREMIUM	
\$685.00	

\*\*CLAIMS FREE DISCOUNT APPLIES\*\*

FIRE 2506

COUNTERSIGNATURE DATE: 7- 1-04

AGENT AND NO. CLARENCE MOSLEY, JR.

TN 11297



This Policy contains exclusions, limitations, and conditions of coverage.

Please read your policy carefully.

## FIRE POLICY

Protecting your property against loss from Fire, Lightning or other perils you may have selected.

# DWELLING POLICY

Now — Fire insurance protection you can count on in a policy you can understand.

You now have a different kind of insurance policy. One that's readable, understandable, straightforward. We believe you have purchased the best in Fire insurance protection — backed by the best in policyholder service. Our pledge is to keep it that way.

Should you have a loss — and we hope you don't — please call us at once. If you have a Nationwide auto insurance identification card, just call the number listed. Otherwise, please call your agent, sales representative, or any local claims office. Our claims service starts then.

Please take a few minutes to read your new policy. It's most important that you know how you are protected. Should you have any questions about this policy — or any part of your insurance program — your agent or sales representative will welcome your call anytime.

Thank you for relying on Nationwide.

## YOUR GUIDE TO PROTECTION

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DP 01 41 10 94  
Tennessee**SPECIAL PROVISIONS – TENNESSEE****OTHER COVERAGES**

11. Glass or Safety Glazing Material is deleted and replaced by the following:

11. Glass or Safety Glazing Material.

a. We cover:

- (1) The breakage of glass or safety glazing material which is part of a covered building, storm door or storm window;
- (2) The breakage, caused directly by Earth Movement, of glass or safety glazing material which is part of a covered building, storm door or storm window; and
- (3) The direct physical loss to covered property caused solely by the pieces, fragments or splinters of broken glass or safety glazing material which is part of a building, storm door or storm window.

b. This coverage does not include loss:

- (1) To covered property which results because the glass or safety glazing material has been broken, except as provided in a.(3) above; or
- (2) On the Described Location if the dwelling has been vacant for more than 30 consecutive days immediately before the loss, except when the breakage results directly from Earth Movement as provided for in a.(2) above. A dwelling being constructed is not considered vacant.

Loss to glass covered under this **OTHER COVERAGE 11** will be settled on the basis of replacement with safety glazing materials when required by ordinance or law.

This coverage does not increase the limit of liability that applies to the damaged property.

The following **OTHER COVERAGE** is added to all Forms except DP 00 01. When you are a tenant of a Described Location covered under this policy, the words "covered building" used below, refer to property at such a Described Location covered under **OTHER COVERAGE 3. Improvements, Alterations and Additions**.

12. Ordinance or Law.

a. The Ordinance or Law limit of liability determined in b. or c. below will apply with respect to the increased costs you incur due to the enforcement of any ordinance or law which requires or regulates:

- (1) The construction, demolition, remodeling, renovation or repair of that part of a covered building or other structure damaged by a PERIL INSURED AGAINST;

(2) The demolition and reconstruction of the undamaged part of a covered building or other structure, when that building or other structure must be totally demolished because of damage by a PERIL INSURED AGAINST to another part of that covered building or other structure; or

(3) The remodeling, removal or replacement of the portion of the undamaged part of a covered building or other structure necessary to complete the remodeling, repair or replacement of that part of the covered building or other structure damaged by a PERIL INSURED AGAINST.

b. If you are an owner of a Described Location, and that location:

(1) Is insured for **COVERAGE A** or Unit-Owner Building Items, you may use up to 10% of the limit of liability that applies to **COVERAGE A** or Unit-Owner Building Items at each Described Location; or

(2) Is not insured for **COVERAGE A** or Unit-Owners Building Items, you may use up to 10% of the total limit of liability that applies to **COVERAGE B** at each Described Location.

c. If you are a tenant of a Described Location, you may use up to 10% of the limit of liability that applies to Improvements, Alterations and Additions at each Described Location.

d. You may use all or part of this ordinance or law coverage to pay for the increased costs you incur to remove debris resulting from the construction, demolition, remodeling, renovation, repair or replacement of property as stated in a. above.

e. We do not cover:

(1) The loss in value to any covered building or other structure due to the requirements of any ordinance or law; or

(2) The costs to comply with any ordinance or law which requires you or others to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, pollutants on any covered building or other structure.

Pollutants means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

This coverage is additional insurance.

## **AUTOMATIC INCREASE IN INSURANCE**

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DP 04 11 07 88

For an additional premium, the limits of liability shown in the Declarations for Coverages A and B will be increased annually by the percentage shown in the policy for this coverage. The percentage will be applied pro rata during the policy period to the limits of liability shown on Declarations for Coverages A and B.

All other provisions of this policy apply.

1. The following information was obtained from the records of the Department of the Interior, Bureau of Land Management, regarding the land owned by the United States in the State of Nevada:

We will provide the insurance described in this policy in return for the premium and compliance with all applicable provisions of this policy.

DEF

In this policy, "you" and "your" refer to the named insured shown in the Declarations and the spouse if a resident of the same household. "We," "us" and "our" refer to the Company providing this insurance.

CONFIDENTIAL

This insurance applies to the Described Location Coverages for which a Limit of Liability is shown and Perils Insured Against for which a Premium is stated.

**We cover:**

1. the dwelling on the Described Location shown in the Declarations, used principally for dwelling purposes, including structures attached to the dwelling;
2. materials and supplies located on or next to the Described Location used to construct, alter or repair the dwelling or other structures on the Described Location, and
3. if not otherwise covered in this policy, building equipment and outdoor equipment used for the service of and located on the Described Location.

This coverage does not apply to land, including land on which the dwelling is located.

We cover other structures on the Described Location, set apart from the dwelling by clear space. This includes structures connected to the dwelling by only a fence, utility line, or similar connection.

This coverage does not apply to land, including land on which the other structures are located. We do not cover other structures.

1. used in whole or in part for commercial, manufacturing or farming purposes; or
2. rented or held for rental to any person not a tenant of the dwelling, unless used solely as a private garage.

We cover personal property (usual to the occupancy as a dwelling and owned or used by you or members of your family residing with you) while it is on the Described Location. At your request, we will cover personal property owned by a guest or servant while the property is on the Described Location.

**Property Not Covered:** We do not cover:

1. accounts, bank notes, bills, bullion, coins, currency, deeds, evidences of debt, gold other than goldware, letters of credit, manuscripts, medals, money notes other than bank notes, passports, personal records, platinum, securities, silver other than silverware, tickets and stamps;
2. animals, birds, or fish;
3. aircraft and parts. Aircraft means any contrivance used or designed for flight, except model or hobby aircraft not used or designed to carry people or cargo;
4. motor vehicles or all other motorized land conveyances. This includes:
  - a. their equipment and accessories; or
  - b. any device or instrument for the transmitting, recording, receiving, or reproduction of sound or pictures which is operated by power from the electrical system of motor vehicles or all other motorized land conveyances, including:

(1) accessories or antennas; or

(2) tapes, wires, records, discs or other media for use with any such device or instrument, or

while in or on the vehicle or conveyance.

We do not cover vehicles or conveyances not subject to motor vehicle registration which are:

a. used to service the Described Location;

b. designed for assisting the handicapped;

5. watercraft, other than rowboats and canoes;

6. data, including data stored in:

a. books of account, drawings or other paper records; or

b. electronic data processing tapes, wires, records, discs or other software media.

However, we do cover the cost of blank recording or storage media, and of pre-recorded computer programs available on the retail market;

7. credit cards or fund transfer cards.

If you remove personal property from the Described Location to a newly acquired principal residence, the Coverage C limit of liability will apply at each residence for the 30 days immediately after you begin to move the property there. This time period will not extend beyond the termination of this policy. Our liability is limited to the proportion of the limit of liability that the value at each residence bears to the total value of all personal property covered by this policy.

#### COVERAGE D - Fair Rental Value

If a loss to property described in Coverage A, B or C by a Peril Insured Against under this policy makes that part of the Described Location rented to others or held for rental by you unfit for its normal use, we cover its

Fair Rental Value, meaning the fair rental value of that part of the Described Location rented to others or held for rental by you less any expenses that do not continue while that part of the Described Location rented or held for rental is unfit to live in.

Payment will be for the shortest time required to repair or replace that part of the Described Location rented or held for rental.

If a civil authority prohibits you from use of the Described Location as a result of direct damage to a neighboring location by a Peril Insured Against in this policy, we cover the Fair Rental Value loss for no more than two weeks.

The periods of time referenced above are not limited by the expiration of this policy.

We do not cover loss or expense due to cancellation of a lease or agreement.

#### COVERAGE E - Additional Living Expense

If a loss to property described in Coverage A, B or C by a Peril Insured Against under this policy makes the Described Location unfit for its normal use, we cover your:

Additional Living Expense, meaning any necessary increase in living expenses incurred by you so that your household can maintain its normal standard of living.

Payment will be for the shortest time required to repair or replace the Described Location or, if you permanently relocate, the shortest time required for your household to settle elsewhere. If a civil authority prohibits you from use of the Described Location as a result of direct damage to a neighboring location by a Peril Insured Against in this policy, we cover the Additional Living Expense loss for no more than two weeks.

The periods of time referenced above are not limited by the expiration of this policy.

We do not cover loss or expense due to cancellation of a lease or agreement.

#### OTHER COVERAGES

1. Other Structures. You may use up to 10% of the Coverage A limit of liability for loss by a Peril Insured Against to other structures described in Coverage B.

Use of this coverage does not reduce the Coverage A limit of liability for the same loss.

2. Debris Removal. We will pay your reasonable expense for the removal of debris of covered property if a Peril Insured Against causes the loss or

breach, dust or particles from a volcanic eruption that has caused direct loss to a building or property contained in a building.

Debris removal expense is included in the limit of liability applying to the damaged property.

3. Improvements, Alterations and Additions. If you are a tenant of the Described Location, you may use up to 10% of the Coverage C limit of liability for loss by a Peril Insured Against to improvements, alterations and additions made or acquired at your expense to that part of the Described Location used only by you.

Use of this coverage does not reduce the Coverage C limit of liability for the same loss.

4. World-Wide Coverage. You may use up to 10% of the Coverage C limit of liability for loss by a Peril Insured Against to property covered under Coverage C except rowboats and canoes, while anywhere in the world.

Use of this coverage reduces the Coverage C limit of liability for the same loss.

**5. Rental Value and Additional Living Expense.** You may use up to 10% of the Coverage A limit of liability for loss of both fair rental value as described in Coverage D and additional living expense as described in Coverage E.

Use of this coverage does not reduce the Coverage A limit of liability for the same loss.

**6. Reasonable Repairs.** In the event that covered property is damaged by a Peril Insured Against, we will pay the reasonable cost incurred by you for necessary measures taken solely to protect against further damage. If the measures taken involve repair to other damaged property, we will pay for those measures only if that property is covered under this policy and the damage to that property is caused by an applicable Peril Insured Against.

This coverage:

a. does not increase the limit of liability that applies to the covered property;

b. does not relieve you of your duties, in case of a loss to covered property, as set forth in Condition 4 b.

**7. Property Removed.** We insure covered property against direct loss from any cause while being removed from a premises endangered by a Peril Insured Against and for no more than 30 days while removed.

This coverage does not change the limit of liability that applies to the property being removed.

**8. Trees, Shrubs and Other Plants.** We cover trees, shrubs, plants or lawns, on the Described Location for loss caused by the following Perils Insured Against: Fire or lightning, Explosion, Riot or civil commotion, Aircraft, Vehicles not owned or operated by you or a resident of the Described Location or Vandalism or malicious mischief, including damage during a burglary or attempted burglary but not theft of property. The limit of liability for this coverage will not be more than 5% of the Coverage A limit of liability or more than \$500 for any one tree, shrub or plant. We do not cover property grown for commercial purposes.

This coverage is additional insurance.

**9. Fire Department Service Charge.** We will pay up to \$500 for your liability assumed by contract or agreement for fire department charges incurred when the fire department is called to save or protect covered property from a Peril Insured Against. We do not cover fire department service charges if the property is located within the limits of the city, municipality or protection district furnishing the fire department response.

This coverage is additional insurance. No deductible applies to this coverage.

**10. Collapse.** We insure for risk of direct physical loss to covered property involving collapse of a building or any part of a building caused only by one or more of the following:

a. Perils Insured Against in Coverage C

Personal Property. These perils apply to uncovered building and personal property owned for loss insured by this Other Coverage.

b. hidden decay;

c. hidden insect or vermin damage;

d. weight of contents, equipment, animals or people;

e. weight of rain which collects on a roof;

f. use of defective material or methods in construction, remodeling or renovation if the collapse occurs during the course of the construction, remodeling or renovation.

Loss to an awning, fence, patio, pavement, swimming pool, underground pipe, flue, drain, cesspool, septic tank, foundation, retaining wall, bulkhead, pier, wharf or dock is not included under items b, c, d, e and f unless the loss is a direct result of the collapse of a building.

Collapse does not include settling, cracking, shrinking, bulging or expansion.

This coverage does not increase the limit of liability applying to the damaged covered property.

**11. Glass or Safety Glazing Material.** We cover:

a. the breakage of glass or safety glazing material which is part of a covered building, storm door or storm window; and

b. damage to covered property by glass or safety glazing material which is part of a covered building, storm door or storm window.

This coverage does not include loss on the Described Location if the dwelling has been vacant for more than 30 consecutive days immediately before the loss. A dwelling being constructed is not considered vacant.

Loss for damage to glass will be settled on the basis of replacement with safety glazing materials when required by ordinance or law.

This coverage does not increase the limit of liability that applies to the damaged property.

**PERILS INSURED AGAINST****COVERAGE A - DWELLING and  
COVERAGE B - OTHER STRUCTURES**

We insure against risk of direct loss to property described in Coverages A and B only if that loss is a physical loss to property; however, we do not insure loss:

1. involving collapse other than as provided in Other Coverages 10;
2. caused by:

- a. freezing of a plumbing, heating, air conditioning or automatic fire protective sprinkler system or of a household appliance, or by discharge or leakage or overflow from within the system or appliance caused by freezing; This exclusion applies only while the dwelling is vacant, unoccupied or being constructed, unless you have used reasonable care to:

- (1) maintain heat in the building or
- (2) shut off the water supply and drain the system and appliances of water;

- b. freezing, thawing, pressure or weight of water or ice, whether driven by wind or not, to:

- (1) fence, pavement, patio or swimming pool;
- (2) foundation, retaining wall or bulkhead;
- (3) pier, wharf or dock;

- c. theft of property not part of a covered building or structure;

- d. theft in or to a dwelling or structure under construction;

- e. wind, hail, ice, snow or sleet to:

- (1) outdoor, radio and television antennas and aerials including their lead-in wiring, masts or towers; or
- (2) trees, shrubs, plants on lawns;

- f. vandalism and malicious mischief theft or attempted theft if the dwelling has been vacant for more than 30 consecutive days immediately before the loss. A dwelling being constructed is not considered vacant;

- g. constant or repeated seepage or leakage of water or steam over a period of weeks, months or years from within a plumbing, heating, air conditioning or automatic fire protective sprinkler system or from within a household appliance;

- h. (1) wear and tear, marring, deterioration;
- (2) inherent vice, latent defect, mechanical breakdown;
- (3) smog, rust or other corrosion, mold, wet or dry rot;

- (4) smoke from agricultural, smelter or industrial operations;
- (5) discharge, dispersal, seepage, release or escape of pollutant;

- (6) settling, shrinking, bulging, or sion, including resultant cracking pavements, patios, foundation floors, roofs or ceilings; or
- (7) birds, vermin, rodents, insects, domestic animals.

- If any of these cause water damage otherwise excluded from a heating, air conditioning or automatic fire protective sprinkler system or an appliance, we cover loss caused by water including the cost of tea and replacing any part of a building necessary to repair the system or a appliance from which this water.

3. excluded under General Exclusions. Under items (1) and (2), any resulting property described in Coverages A and B excluded or excepted in this policy is:

- COVERAGE C - PERSONAL PROPERTY**

- We insure for direct physical loss property described in Coverage C caused by perils listed below unless the loss is in the General Exclusions.

1. Fire or lightning.
2. Windstorm or hail.

- This peril does not include loss to:

- a. property contained in a building by rain, snow, sleet, sand or dust the direct force of wind or hail or the building causing an opening in or wall and the rain, snow, sleet or dust enters through this opening;
- b. canoes and rowboats;
- c. trees, shrubs, or plants.

3. Explosion.
4. Riot or civil commotion.
5. Aircraft, including self-propelled and spacecraft.
6. Vehicles.

**7. Smoke**, meaning sudden and accidental damage from smoke.

This peril does not include loss caused by smoke from agricultural smudging or industrial operations.

**8. Vandalism or malicious mischief**

This peril does not include loss by pilferage, theft, burglary or larceny.

**9. Damage by Burglars**, meaning damage to covered property caused by Burglars.

This peril does not include:

- theft of property; or
- damage caused by burglars to property on the Described Location if the dwelling has been vacant for more than 30 consecutive days immediately before the damage occurs. A dwelling being constructed is not considered vacant.

**10. Falling Objects**

This peril does not include loss to property contained in the building unless the roof or an outside wall of the building is first damaged by a falling object.

Damage to the falling object itself is not covered.

**11. Weight of ice, snow or sleet** which causes damage to property contained in the building.

**12. Accidental discharge or overflow of water or steam** from within a plumbing, heating, air conditioning or automatic fire protective sprinkler system or from within a household appliance.

This peril does not include loss:

- to the system or appliance from which the water or steam escaped;
- caused by or resulting from freezing except as provided in the peril of freezing below; or
- on the Described Location caused by accidental discharge or overflow which occurs off the Described Location.

In this peril, a plumbing system does not include a sump, sump pump, or related equipment.

**13. Sudden and accidental tearing apart, cracking, burning or bulging** of a steam or hot water heating system, air conditioning or automatic fire protective sprinkler system, or an appliance for heating water.

This peril does not include loss caused by or resulting from freezing except as provided in the peril of freezing below.

**14. Freezing** of a plumbing, heating, air conditioning or automatic fire protective sprinkler system or of a household appliance.

This peril does not include loss on the Described Location while the dwelling is unoccupied or being constructed, unless you have used reasonable care to:

- maintain heat in the building; or
- shut off the water supply and drain the system and appliances of water.

**15. Sudden and accidental damage from artificially generated electrical current.**

This peril does not include loss to a tube, transistor, or similar electronic component.

**16. Volcanic Eruption**, other than loss caused by earthquake, land shock waves or tremors.

## GENERAL EXCLUSIONS

We do not insure for loss caused directly or indirectly by any of the following. Such loss is excluded regardless of any other cause or event contributing concurrently or in any sequence to the loss.

**a. Ordinance or Law**, meaning enforcement of any ordinance or law regulating the use, construction, repair, or demolition of a building or other structure, unless specifically provided under this policy.

**b. Earth Movement**, meaning earthquake including land shock waves or tremors before, during, or after a volcanic eruption, landslide, mine subsidence, mudflow, earth sinking, rising or shifting, unless direct loss by:

- fire;
- explosion; or

**(3) breakage** of glass or safety glazing material which is part of a building, storm door or storm window.

When such breakage occurs, we will pay only for the ensuing loss.

**c. Water Damage**, meaning:

(1) flood, surface water, waves, tidal water, overflow of a body of water, or spray from any of these, whether or not driven by wind;

(2) water which backs up through sewers or drains or which overflows from a sump; or

(3) water below the surface of the ground, including water which exerts pressure on or seeps or leaks through a building, sidewalk, driveway, foundation, swimming pool or other structure.

Direct loss by fire or explosion resulting from water damage is covered.

d. **Power Failure**, meaning the failure of power or other utility service if the failure takes place off the Described Location. But if a Peril Insured Against ensues on the Described Location, we will pay only for that ensuing loss.

e. **Neglect**, meaning your neglect to use all reasonable means to save and preserve property at and after the time of a loss.

f. **War**, including undeclared war, civil war, insurrection, rebellion, revolution, warlike act by a military force or military personnel, destruction or seizure or use for a military purpose, and including any consequence of any of these. Discharge of a nuclear weapon will be deemed a warlike act even if accidental.

g. **Nuclear Hazard**, to the extent set forth in the Nuclear Hazard Clause of the Conditions.

h. **Intentional Loss**, meaning any loss arising out of any act committed:

(1) by or at the direction of you or any person or organization named as an additional insured; and

(2) with the intent to cause a loss.

#### CONDITIONS

1. **Policy Period**. This policy applies only to loss which occurs during the policy period.

2. **Insurable Interest and Limit of Liability**. Even if more than one person has an insurable interest in the property covered, we will not be liable in any one loss:

a. for an amount greater than the interest of a person insured under this policy; or

b. for more than the applicable limit of liability.

3. **Concealment or Fraud**. The entire policy will be void if, whether before or after a loss, you have:

a. intentionally concealed or misrepresented any material fact or circumstance;

b. engaged in fraudulent conduct; or

c. made false statements relating to this insurance.

4. **Your Duties After Loss**. In case of a loss to covered property, you must see that the following are done:

a. give prompt notice to us or our agent;

b. (1) protect the property from further damage;

(2) make reasonable and necessary repairs to protect the property; and

2. We do not insure for loss to property described in Coverages A and B caused by any of the following. However, any ensuing loss to property described in Coverages A and B not excluded or excepted in this policy is covered.

a. **Weather conditions**. However, this exclusion only applies if weather conditions contribute in any way with a cause or event excluded in paragraph 1. above to produce the loss.

b. **Acts or decisions**, including the failure to act or decide, of any person, group, organization, or governmental body.

c. **Faulty, inadequate or defective**:

(1) planning, zoning, development, surveying, and siting;

(2) design, specifications, workmanship, repair, construction, renovation, remodeling, grading, compaction;

(3) materials used in repair, construction, renovation or remodeling; or

(4) maintenance.

of part or all of any property whether on or off the Described Location.

(3) keep an accurate record of repair expenses;

d. prepare an inventory of damaged personal property showing the quantity, description, actual cash value and amount of loss. Attach all bills, receipts, and related documents that justify the figures in the inventory.

e. as often as we reasonably require:

(1) show the damaged property;

(2) provide us with records and documents we request and permit us to make copies; and

(3) submit to examination under oath, while not in the presence of any other named insured, and sign the same.

f. send to us, within 60 days after our request, your signed, sworn proof of loss which sets forth to the best of your knowledge and belief:

(1) the time and cause of loss;

(2) your interest and that of all others in the property involved and all liens on the property;

(3) other insurance which may cover the loss;

(4) changes in title or occupancy of the property during the term of the policy;

- (5) specifications of damaged buildings and detailed repair estimates;
- (6) the inventory of damaged personal property described in 4c;
- (7) receipts for additional living expenses incurred and records that support the fair rental value loss.

**5. Loss Settlement.** Covered property losses are settled as follows:

**a. (1) Personal property.**

- (2) Awnings, carpeting, household appliances, outdoor antennas and outdoor equipment, whether or not attached to buildings; and

**(3) Structures that are not buildings:**

at actual cash value at the time of loss but not more than the amount required to repair or replace.

**b. Buildings under Coverage A or B at replacement cost without deduction for depreciation, subject to the following:**

- (1) If at the time of loss the amount of insurance in this policy on the damaged building is 80% or more of the full replacement cost of the building immediately before the loss, we will pay the cost to repair or replace, after application of deductible and without deduction for depreciation, but not more than the least of the following amounts:

(a) the limit of liability under this policy that applies to the building;

(b) the replacement cost of that part of the building damaged, for like construction and use on the same premises; or

(c) the necessary amount actually spent to repair or replace the damaged building.

- (2) If, at the time of loss, the amount of insurance in this policy on the damaged building is less than 80% of the full replacement cost of the building immediately before the loss, we will pay the greater of the following amounts, but not more than the limit of liability under this policy that applies to the building:

(a) the actual cash value of that part of the building damaged; or

(b) that proportion of the cost to repair or replace, after application of deductible and without deduction for depreciation, that part of the building damaged, which the total amount of insurance in this policy on the damaged building bears to 80% of the replacement cost of the building.

- (3) To determine the amount of insurance required to equal 80% of the full replacement cost of the building immediately before the loss, do not include the value of:

(a) excavations, foundations, piers or any supports which are below the undersurface of the lowest basement floor;

(b) those supports in (a) above which are below the surface of the ground inside the foundation walls, if there is no basement; and

(c) underground flues, pipes, wiring and drains.

- (4) We will pay no more than the actual cash value of the damage unless:

(a) actual repair or replacement is complete; or

(b) the cost to repair or replace the damage is both:

- (i) less than 5% of the amount of insurance in this policy on the building; and
- (ii) less than \$2500.

- (5) You may disregard the replacement cost loss settlement provisions and make claim under this policy for loss or damage to buildings on an actual cash value basis. You may then make claim within 180 days after loss for any additional liability on a replacement cost basis.

**6. Loss to a Pair or Set.** In case of loss to a pair or set we may elect to:

a. repair or replace any part to restore the pair or set to its value before the loss; or

b. pay the difference between actual cash value of the property before and after the loss.

**7. Glass Replacement.** Loss for damage to glass caused by a Peril Insured Against will be settled on the basis of replacement with safety glazing materials when required by ordinance or law.

**8. Appraisal.** If you and we fail to agree on the amount of loss, either may demand an appraisal of the loss. In this event, each party will choose a competent appraiser within 20 days after receiving a written request from the other. The two appraisers will choose an umpire. If they cannot agree upon an umpire within 15 days, you or we may request that the choice be made by a judge of a court of record in the state where the Described Location is located. The appraisers will separately set the amount of loss. If the appraisers submit a written report of an agreement to us, the amount agreed upon will be the amount of loss. If they fail to agree, they will submit their differences to the umpire. A decision agreed to by any two will set the amount of loss.

Each party will:

- a. pay its own appraiser; and
- b. bear the other expenses of the appraisal and umpire equally.

9. **Other Insurance.** If property covered by this policy is also covered by other fire insurance, we will pay only the proportion of a loss caused by any peril insured against under this policy that the limit of liability applying under this policy bears to the total amount of fire insurance covering the property.

10. **Subrogation.** You may waive in writing before a loss all rights of recovery against any person. If not waived, we may require an assignment of rights of recovery for a loss to the extent that payment is made by us.

If an assignment is sought, the person insured must sign and deliver all related papers and cooperate with us.

11. **Suit Against Us.** No action can be brought unless the policy provisions have been complied with and the action is started within one year after the date of loss.

12. **Our Option.** If we give you written notice within 30 days after we receive your signed, sworn proof of loss, we may repair or replace any part of the damaged property with like property.

13. **Loss Payment.** We will adjust all losses with you. We will pay you unless some other person is named in the policy or is legally entitled to receive payment. Loss will be payable 60 days after we receive your proof of loss and:

- a. reach an agreement with you;
- b. there is an entry of a final judgment; or
- c. there is a filing of an appraisal award with us.

14. **Abandonment of Property.** We need not accept any property abandoned by you.

#### 15. **Mortgage Clause.**

The word "mortgagee" includes trustee.

If a mortgagee is named in this policy, any loss payable under Coverage A or B will be paid to the mortgagee and you, as interests appear. If more than one mortgagee is named, the order of payment will be the same as the order of precedence of the mortgages.

If we deny your claim, that denial will not apply to a valid claim of the mortgagee, if the mortgagee:

- a. notifies us of any change in ownership, occupancy, or substantial change in risk of which the mortgagee is aware; or
- b. notifies us of any change in ownership, occupancy, or substantial change in risk of which the mortgagee is aware; or

b. pays any premium due under this policy on demand if you have neglected to pay the premium; and

c. submits assigned, sworn statement of loss within 60 days after receiving notice from us of your failure to do so. Policy conditions relating to Appraisal, Suit Against Us and Loss Payment apply to the mortgagee.

If we decide to cancel or not to renew this policy, the mortgagee will be notified at least 10 days before the date cancellation or nonrenewal takes effect.

If we pay the mortgagee for any loss and deny payment to you:

a. we are subrogated to all the rights of the mortgagee granted under the mortgage on the property;

b. at our option, we may pay to the mortgagee the whole principal on the mortgage plus any accrued interest in this event, we will receive a full assignment and transfer of the mortgage and all securities held as collateral to the mortgage debt.

Subrogation will not impair the right of the mortgagee to recover the full amount of the mortgagee's claim.

16. **No Benefit to Ballee.** We will not recognize any assignment or grant any coverage that benefits a person or organization holding, storing or moving property for a fee regardless of any other provision of this policy.

#### 17. **Cancellation.**

a. You may cancel this policy at any time by returning it to us or by letting us know in writing of the date cancellation is to take effect.

b. We may cancel this policy only for the reasons stated below by letting you know in writing of the date cancellation takes effect. This cancellation notice may be delivered to you or mailed to you at your mailing address shown in the Declarations.

Proof of mailing will be sufficient proof of notice.

(1) When you have not paid the premium, we may cancel at any time by letting you know at least 10 days before the date cancellation takes effect.

(2) When this policy has been in effect for less than 60 days and is not a nonrenewal with us, we may cancel for no reason by letting you know at least 10 days before the date cancellation takes effect.

Policy conditions relating to Appraisal, Suit Against Us and Loss Payment apply to the mortgagee.

(3) When this policy has been in effect for 60 days or more, or at any time if it is a renewal with us, we may cancel:

(a) if there has been a material misrepresentation of fact which if known to us would have caused us not to issue the policy; or

(b) if the risk has changed substantially since the policy was issued.

This can be done by letting you know at least 30 days before the date cancellation takes effect.

(4) When this policy is written for a period of more than one year, we may cancel for any reason at anniversary by letting you know at least 30 days before the date cancellation takes effect.

c. When this policy is cancelled, the premium for the period from the date of cancellation to the expiration date will be refunded pro rata.

d. If the return premium is not refunded with the notice of cancellation or when this policy is returned to us, we will refund it within a reasonable time after the date cancellation takes effect.

18. **Non-Renewal.** We may elect not to renew this policy. We may do so by delivering to you, or mailing to you at your mailing address shown in the Declarations, written notice at least 30 days before the expiration date of this policy. Proof of mailing will be sufficient proof of notice.

19. **Liberalization Clause.** If we make a change which broadens coverage under this edition of our policy without additional premium charge, that change will automatically apply to your insurance as of the date we implement the change in your state, provided that this implementation date falls within 60 days prior to or during the policy period stated in the Declarations.

This Liberalization Clause does not apply to changes implemented through introduction of a subsequent edition of our policy.

20. **Waiver or Change of Policy Provisions.** A waiver or change of a provision of this policy must be in writing by us to be valid. Our request for an appraisal or examination will not waive any of our rights.

21. **Assignment.** Assignment of this policy will not be valid unless we give our written consent.

22. **Death.** If you die, we insure:

a. your legal representatives but only with respect to the property of the deceased covered under the policy at the time of death;

b. with respect to your property, the person having proper temporary custody of the property until appointment and qualification of a legal representative.

23. **Nuclear Hazard Clause.**

a. "Nuclear Hazard" means any nuclear reaction, radiation or radioactive contamination, all whether controlled or uncontrolled or however caused, or any consequence of any of these.

b. Loss caused by the nuclear hazard will not be considered loss caused by fire, explosion, or smoke, whether these perils are specifically named in, or otherwise included within the Perils Insured Against.

c. This policy does not apply to loss caused directly or indirectly by nuclear hazard, except that direct loss by fire resulting from the nuclear hazard is covered.

24. **Recovered Property.** If you or we recover any property for which we have made payment under this policy, you or we will notify the other of the recovery. At your option, the property will be returned to or retained by you or it will become our property. If the recovered property is returned to or retained by you, the loss payment will be adjusted based on the amount you received for the recovered property.

25. **Volcanic Eruption Period.** One or more volcanic eruptions that occur within a 72-hour period will be considered as one volcanic eruption.

ATTACH FORM AND ENDORSEMENTS (IF ANY) HERE

Page

### SPECIAL CONDITION

**OPTIONAL PAYMENT  
OF PREMIUM IN  
INSTALLMENTS**

If the Declarations so indicate, the premium for this policy is payable in two installments under terms and conditions approved where required by the Department of Insurance. For each separate installment payment there is an installment premium payment charge.

### POLICYHOLDER MEMBERSHIP IN THE COMPANY

Because this policy is issued by a mutual insurance company, you are a member of the Company while this or any other policy is in force. While a member you are entitled one vote only — either in person or by proxy — at meetings of members of the Company. You are entitled to any dividends which are declared by the Board of Directors and are applicable to coverages in your policy.

The annual meeting of members of the Company will be held at the Home Office in Columbus, Ohio, at 9:30 a.m. on the first Thursday of April.

**IN WITNESS WHEREOF:** Nationwide Mutual Fire Insurance Company has caused this policy to be signed by its President and Secretary at Columbus, Ohio, and countersigned by a duly authorized representative of the Company.

*Patricia P. Hatter*  
Secretary

*Galen Burnes*  
President



Nationwide Mutual Fire Insurance Company  
Home Office: One Nationwide Plaza, Columbus, Ohio 43215-2220



**Nationwide®**  
*On Your Side™*

3340 Players Club Parkway Suite 300 \* Memphis, TN 38125 \*\*

February 15, 2008

John Keith Perry, Jr.  
Sparkman-Zummach, PC  
Attorneys at Law  
P.O. Box 266  
Southaven, MS 38671-0266

**OUR INSURED :** Vincent & Clara Gilbert  
**OUR CLAIM NUMBER :** 63 41 T 455663 07042007 01  
**DATE OF LOSS :** 07-04-2007

Dear Mr. Perry:

As you are aware, Nationwide Mutual Fire Insurance Company (Nationwide) has been conducting a thorough investigation into the above-referenced loss. As a result of this investigation, Nationwide has concluded the following:

1. The fire loss of July 4, 2007 was incendiary in nature, and we believe was caused by or at the discretion of Vincent and/or Clara Gilbert.
2. Vincent and Clara Gilbert violated those provisions of their insurance policy set forth below:

**GENERAL EXCLUSIONS - Special Provisions Endorsement DP 0141, page 2 of 2 policy language replaces language in Dwelling Property 3 Special Form:**

1. We do not insure for loss caused directly or indirectly by any of the following. Such loss is excluded regardless of any other cause or event contributing concurrently or in any sequence to the loss.
8. Intentional Loss is deleted from Dwelling Property 3 Special Form and replaced by the following:
  8. Intentional Loss. We do not provide coverage for a person who is insured under this policy if that person commits or directs an act with the intent to cause a loss.

**CONDITIONS**

3. Concealment or Fraud is deleted and replaced by the following:

Concealment or Fraud. With respect to all persons insured under this policy, we provide no coverage for loss if, whether before or after a loss, one or more persons insured under this policy have:

- a. Intentionally concealed or misrepresented any material fact or circumstance;
- b. Engaged in fraudulent conduct; or
- c. Made false statements;

relating to this insurance.



Tennessee law requires the following notice: It is a crime to knowingly provide false, incomplete or misleading information to an insurance company for the purpose of defrauding the company. Penalties include imprisonment, fines and denial of insurance benefits.



**Nationwide®**  
*On Your Side™*

Their actions in either intentionally setting the fire, or having the fire set at their direction, constitutes an Intentional Act. Accordingly, there is no coverage for this loss under the terms of their policy.

For the foregoing reasons, Nationwide must deny the claim of Vincent and Clara Gilbert and can make no voluntary payment to them. However, please be advised that Nationwide will pay the mortgage holder listed on their policy, to the extent of its interest in the property. All premium paid on this policy will be refunded. I am still in the process of trying to obtain a payoff amount from CitiMortgage Inc.

By stating the above reasons for denial of this claim, Nationwide does not waive the right to assert any other defenses to payment of this claim which may come to its attention and specifically reserves the right to assert the same.

NATIONWIDE MUTUAL FIRE INSURANCE COMPANY

Nationwide Mutual Fire Insurance Company  
Kristy Stewart  
Claims Department  
(901)821-5137

cc: Rusty Reviere,  
Robin Forrester,  
Vincent and Clara Gilbert

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Tennessee law requires the following notice: It is a crime to knowingly provide false, incomplete or misleading information to an insurance company for the purpose of defrauding the company. Penalties include imprisonment, fines and denial of insurance benefits.

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(CHANCERY/CIRCUIT) COURT OF TENNESSEE  
140 ADAMS AVENUE MEMPHIS, TENNESSEE 38103  
FOR THE THIRTIETH JUDICIAL DISTRICT AT MEMPHIS

## SUMMONS IN CIVIL ACTION

NO. CT 004097-08 AD DAMNUM \$ \_\_\_\_\_ AUTO ☐ OTHER ☒  
VINCENT GILBERT, and  
CLARA GILBERT  
7130 Queen Crown Court, Memphis, TN  
Home Address  
vs. PLAINTIFF  
NATIONWIDE INSURANCE CO., and  
KRISTY STEWART  
3340 Players Club Pky, #300, Memphis, TN  
Home Address  
DEFENDANT  
Business Address  
TO THE DEFENDANT(S): KRISTY STEWART, 3340 PLAYERS CLUD PKY, #300, MEMPHIS, TN

You are hereby summoned and required to defend a civil action by filing your answer with the Clerk of the Court and serving a copy of your answer to the Complaint on John Keith Perry, Jr. Plaintiff's attorney, whose address is P.O. Box 266, Southaven, MS 38671-0266, telephone 662-349-6900 within THIRTY (30) DAYS after this summons has been served upon you, not including the day of service. If you fail to do so, a judgment by default may be taken against you for the relief demanded in the Complaint.

JIMMY MOORE, Clerk

KENNY ARMSTRONG, Clerk &amp; Master

TESTED AND ISSUED 8-20-, 20 08By [Signature], D.C.

TO THE DEFENDANT(S):

NOTICE: Pursuant to Chapter 919 of the Public Acts of 1980, you are hereby given the following notice:

Tennessee law provides a four thousand dollar (\$4,000) personal property exemption from execution or seizure to satisfy a judgment. If a judgment should be entered against you in this action and you wish to claim property as exempt, you must file a written list, under oath, of the items you wish to claim as exempt with the Clerk of the Court. The list may be filed at any time and may be changed by you thereafter as necessary; however, unless it is filed before the judgment becomes final, it will not be effective as to any execution or garnishment issued prior to the filing of the list. Certain items are automatically exempt by law and do not need to be listed. These include items of necessary wearing apparel (clothing) for yourself and your family and trunks or other receptacles necessary to contain such apparel, family portraits, the family Bible and school books. Should any of these items be seized, you would have the right to recover them. If you do not understand your exemption right or how to exercise it, you may wish to seek the counsel of a lawyer.

## COST BOND

I hereby acknowledge and bind myself for the prosecution of this action and payment of all costs not to exceed \$500.00 in this court which may at any time be adjudged against the plaintiff in the event said plaintiff shall not pay the same.

Witness My Hand this \_\_\_\_\_ day of \_\_\_\_\_, 20 08

Certification when applicable

Surety

I, KENNY ARMSTRONG, Clerk & Master of the Chancery Court, Shelby County, Tennessee, certify this to be a true and accurate copy as filed this  
KENNY ARMSTRONG, Clerk & Master

I, JIMMY MOORE, Clerk of the Circuit Court, Shelby County, Tennessee, certify this to be a true and accurate copy as filed this

JIMMY MOORE, Clerk

By: \_\_\_\_\_, DC

By: \_\_\_\_\_, DC

Front

**RETURN ON SERVICE OF SUMMONS**

I HEREBY CERTIFY THAT I HAVE SERVED THE WITHIN SUMMONS:

By delivering on the \_\_\_\_\_ day of \_\_\_\_\_, 20 08 at \_\_\_\_\_ M.

a copy of the summons and a copy of the Complaint to the following defendants

Kristy StewartMark Luttrell, Sheriff

By \_\_\_\_\_

Deputy Sheriff

**PRIVATE PROCESS SERVER**

I HEREBY CERTIFY THAT I HAVE SERVED THE WITHIN SUMMONS:

By delivering on the \_\_\_\_\_ day of \_\_\_\_\_, 20 08 at \_\_\_\_\_ M. a copy of the

summons and a copy of the Complaint to the following defendants

Kristy Stewart

(PLEASE PRINT THE FOLLOWING)

Private Process Server \_\_\_\_\_

Address \_\_\_\_\_

Phone \_\_\_\_\_

Company \_\_\_\_\_

Signature \_\_\_\_\_

Other manner of service: \_\_\_\_\_

I hereby certify that I have NOT served this Summons on the within named defendant(s) \_\_\_\_\_

because \_\_\_\_\_ is / are not to be found in this County for the following reason(s): \_\_\_\_\_

Mark Luttrell, Sheriff

This \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_ By \_\_\_\_\_

Deputy Sheriff

IN THE  
(CHANCERY/CIRCUIT)  
COURT  
OF TENNESSEE  
FOR THE THIRTIETH  
JUDICIAL DISTRICT AT MEMPHIS

SUMMONS IN CIVIL ACTIONS

PLAINTIFF

Gilbert

vs.

DEFENDANT

Nationwide Ins. Co. &  
Kristy Stewart

Came to hand

Attorney for Plaintiff

John Keith Perry, Jr.Tel. No. 901 349-1900